

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4487 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BHUPENDRA KANTILAL

Versus

UNION OF INDIA

Appearance:

MR BP TANNA for Petitioner
MR YN RAVANI for Respondent No. 1, 2

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 04/05/2000

ORAL JUDGEMENT

Present writ petition has been filed by one Bhupendra Kantilal challenging excessive telephone bill against his Telephone No. 363154 (at the time of filing of the writ petition) for a period from 26-7-1983 to 25-9-1983. The petitioner prays for a direction on the

telephone authority to prefer reasonable bill against the aforesaid telephone.

Ms. Keerawala, learned counsel for Mr. B.P.Tanna, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner made a prayer for disconnecting his STD facility from the aforesaid telephone and the telephone department on receipt of a fee of Rs.50/- disconnected the STD facility in the telephone of the petitioner. Annexure : A -the bill of telephone department shows that such payments were made by the petitioner, the STD facility was disconnected by the telephone department on 21/1/1982. Learned counsel for the petitioner submitted that the petitioner has paid four bills dt. 11/2/1983, 11/4/1983, 10/6/1983 and 11/8/1983 and all these bills are below Rs.400/-. Consequently, learned counsel submitted that when the STD facility has been discontinued on the basis of average bill of the earlier bills, the telephone bill of the petitioner cannot exceed Rs.400/- for every two months. Learned counsel submitted that telephone department preferred the bill for sum of Rs.3,242/- for the period from 26-7-1983 to 25-9-1983. It is also submitted that in absence of STD facility, it is impossible that such high amount of bill can be raised against the telephone of the petitioner. It is also submitted that without STD facility, one has to make a call for every five minutes to bring the bill to such a higher amount. Learned counsel for the petitioner, therefore, submitted that when the period is from 26-7-1983 to 25-9-1983, the amount of Rs.3,240/- is unreasonable and erroneous, and therefore, this bill should be cancelled. The telephone department be directed to prepare bill on the basis of average of three previous bills.

I have heard Mr. Asim Pandya, learned counsel appearing on behalf of the respondent no.1 -telephone authority. Learned counsel very fairly submitted that the bills are preferred in accordance with the meter reading against each telephone. He further submitted that there may be defect in meter and if the petitioner is aggrieved by the bill amounts, then he may file a fresh representation and the telephone authority will reconsider the same and prefer reasonable bill to the petitioner. It appears that after disconnecting STD facility, the telephone department raised four bills dt. 11/2/1983, 11/4/1983, 10/6/1983 and 11/8/1983 and the amounts of bill in the aforesaid four bills are Rs. 295/-, Rs. 319/- Rs.347/- and Rs. 361/- respectively. Therefore, if average is made, it appears that amount of

bill for the period from 26/7/1983 to 25/9/1983 should not exceed Rs.350/-.

Any way, the telephone department is to take decision in the matter. I would like to leave the matter to the wisdom of that authority to decide the amount of bill of the petitioner. However, I feel that when the amount is disputed, especially in view of the fact that STD facility has been withdrawn from the telephone of the petitioner, it is advisable to go by law of average. Since the learned counsel appearing on behalf of the respondent telephone authority is agreeable to reconsider the case of the petitioner, the petitioner may make a fresh representation to the respondent no.2 -General Manager Telephones at Ahmedabad to reconsider the bill for the period from 26/7/1983 to 25/9/1983 within a period of one months from the date of receipt of this order along with the copy of this order and the General Manager Telephones, Ahmedabad may consider the said representation of the petitioner within a period of one month from the date of receipt of the said representation. While deciding the representation, the Authority may either go by the law of average or may write off the claim and prefer a fresh bill for the aforesaid period. It is submitted that in pursuance of interim order, the telephone line of the petitioner has already been restored, and therefore, no order is required to be passed in this behalf.

With the aforesaid observations and directions, the writ petition is disposed of. Rule is made absolute to the aforesaid extent, but I make no order as to costs.

Date: 4/5/2000. (P.K.SARKAR, J.)
ccshah